

## REMARKS

### I. INTRODUCTION

In response to the Office Action dated October 19, 2004, please consider the following remarks.

### II. STATUS OF CLAIMS

Claims 1, 4-21 are pending in the application.

Claims 13, 14, and 17-21 were rejected under 35 U.S.C. §10(b) as being unpatentable over Lo, U.S. Publication No. 2002/0026504 (Lo) in view of Kikinis, U.S. Patent No. 5,960,073 (Kikinis), and these rejections are being appealed.

### III. ALLOWABLE SUBJECT MATTER

Claims 1 and 4-21 are allowed. Claims 15 and 16 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### IV. ISSUES PRESENTED FOR REVIEW

Whether claims 13, 14, and 17-21 are patentable under 35 U.S.C. §103(a) over Lo in view of Kikinis.

### V. ARGUMENTS

#### A. Claim 13 is Patentable Over The Prior Art

##### 1. The Lo Reference

A system and method for automatically configuring customer premises equipment, the system including a search module configured to select a set of configuration values and to create a discover packet including the set of configuration values. The discover packet is transmitted to attempt a connection with a network access device. If no response packet is received from the network access device, the search module selects another set of configuration values and creates another discover packet. If a response packet is received from the network access device, the search module stores the correct configuration values from the header of the response packet into a

configuration register. A memory stores a subset of all possible configuration values including commonly used values.

## 2. The Kikinis Reference

A call center system supports remote agent stations through a network by establishing a data link between a computer platform at the remote agent station and a CTI-processor connected to a telephony switch at the call center, and switching incoming calls from the call center to a telephone at the remote agent station while sending data pertaining to the calls via the data link to the computer platform at the remote agent station to be displayed. Data pertaining to calls is retrieved from a database at the call center and sent via the data link to be displayed on a video display at the remote agent station. The data can include scripts for an agent at the remote station. Call center services are supported by cooperation between software at the CTI processor and the computer platform at the remote station. In one embodiment the data link, once established, is kept open while calls continue to be switched to the remote station. In another, after an initial log in, dial up is done from the remote station upon detecting calls from the call center by a TAPI compliant device, and a reduced log in is performed at the CTI processor to save time. In a third alternative, the CTI processor, via a modem bank adapted for dialing, establishes the data connection each time a call is switched from the call center to the remote station. A plurality of remote stations may be thus supported.

## 3. Independent Claim 13 is Patentable Over the \_\_\_\_ Reference(s)

The Final Office Action clarified its argument with respect to the rejection of claim 13 as follows:

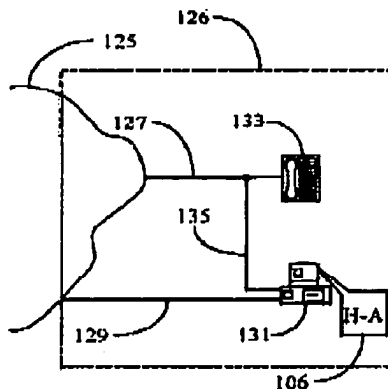
The Examiner respectfully disagree[s], expanding on what was stated in the rejection of claim 13, Examiner interpreted the home agent 106 of Kikinis as being a relay since it can choose using the line 129 for data or telephone and line 127 for either data or telephone connection. See column 6, lines 27-46. In contrast to Applicants argument, Examiner believes that the physical presence of the two ports lines of Kikinis would motivate an artisan familiar with the teaching of Lo to take advantage of implementing intermittently both lines for voice and data services. The advantage would be having a more reliable system of Lo in case of a faulty

line, in addition to two fold bandwidth that a single port line[s] can provide[s].

The Applicant thanks the Examiner for the foregoing clarification. However, for the reasons recited below, the Applicant respectfully disagrees:

The cited portion of the Kikinis reference is reproduced below.

The home agent station has a virtual SoftPhone connection 135 from the telephone to the PC/VDU. This connectivity and functionality is implemented in one embodiment by a TAPI-compliant modem or bridge at the PC/VDU to which voice line 127 interfaces as well as to telephone 133. This connection enables the Home Agent application 106 to have all telephony controls over phone 133. It ensures that the application behaves in same manner whether the agent is located at home, or at the Call Center. It is not strictly required that there be a physical telephone and a physical connection as shown in FIG. 1, however. There are, in alternative embodiments, a number of ways that the SoftPhone connection may be implemented. There are, for example, commercially available applications wherein a telephone may be simulated by software in the PC. There are other implementations as well. What is important is that the SoftPhone is enabled to do outbound dialing for both telephone 133 and data line 129 (modem-connected), and provides other functions as well, such as voice recording, and caller ID. (col. 6, lines 27-46).



The Final Office Action apparently argues that the home agent 106 of the Kikinis reference is a "relay" since it can choose between the line 129 for data or telephone and line 127 for either data or telephone connection. The Applicant disagrees.

As a threshold matter, there can be no dispute that the foregoing passage does not *expressly* disclose the use of a relay. The only issue therefore is whether a relay is inherently disclosed. Inherency "may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient." *Continental Can Co. v. Monsanto Co.*, 948 F.2d 1264, 1269 (Fed. Cir. 1991). Instead, to establish inherency, the extrinsic evidence "must

make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill." *Continental Can Co.*, 948 F.2d at 1268. The issue therefore devolves to whether a relay is necessary to perform the functions disclosed in the Kikinis reference. The Applicant respectfully submits that it is not.

Kikinis itself teaches the use of a TAPI-compliant modem or bridge at the PC/VDU to interface with the voice line 127 and the telephone 133. As far as the Applicant is aware, TAPI-compliant modems use packet-switched IP telephony to integrate messages and provide the necessary functionality. They do not use a relay, and even if the packet switching might be compared to a "relay", any such relay would not be for "switching a connection between (i) said DSL circuit and a first pair of lines of said analog telephone line, and (ii) said DSL circuit and a second pair of lines of said analog telephone line." as recited in claim 1. First, no such switching between pairs of lines is disclosed, and second, switching between first and second pairs of lines *in the same analog telephone line* is not disclosed. Even if Kikinis can be said to disclose switching between lines as the Final Office Action suggests, in no way can it be suggested to disclose using a relay to do so, nor switching between different pairs or lines in the same analog telephone line.

### B. The Dependent Claims Are Patentable Over The Prior Art

#### 1. Dependent Claims 14 and 17-21 are Patentable

Claims 14 and 17-21 each recite the features of claim 13 and are patentable on that basis alone. In addition, as described in earlier submissions, claims 14 and 17-21 recite features rendering them even more remote from the prior art.

## VI. CONCLUSION

In view of the above, it is submitted that this application is now in good order for allowance and such allowance is respectfully solicited. Should the Examiner believe minor matters still remain that can be resolved in a telephone interview, the Examiner is urged to call Applicant's undersigned attorney.

Respectfully submitted,

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